



**State of Utah**

**Department of  
Natural Resources**

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**Division of  
Oil, Gas & Mining**

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*Division Director*

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*Governor*

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*Lieutenant Governor*

February 13, 2006

CERTIFIED MAIL  
7099 3400 0016 8894 6222

Mark Carter  
MMG Mining  
3655 Lupin Way  
St. George, UT 84790

Subject: Findings of Fact, Conclusions, Order and Finalized Re-Assessment for  
MC-05-02-02(1), Bald Knoll, S/025/012, Kane County, Utah

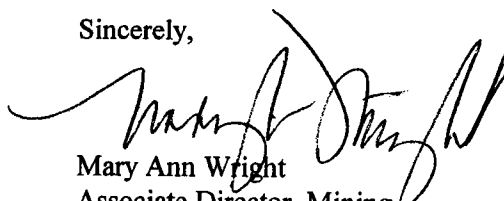
Dear Mr. Carter:

On January 20, 2006, an Informal Conference was held to review the fact of violation and proposed assessment for state violation MC-05-02-02(1). As a result of a review of all pertinent data and facts, including those presented in the Informal Hearing and Assessment Conference, the attached documents shall constitute the findings of fact, conclusions, order, and finalized re-assessment.

Within fifteen (15) days of your receipt of this letter, you or your agent may make a written appeal to the Board of Oil, Gas and Mining. To do so, you must escrow the assessed civil penalties with the Division within thirty (30) days of receipt of this letter, but in all cases, prior to the Board Hearing. Failure to comply with this requirement will result in a waiver of your right of further recourse.

If no timely appeal is made, this assessed civil penalty must be tendered within thirty (30) days of your receipt of this letter. Please remit payment to the Division of Oil, Gas and Mining, mail c/o Vickie Southwick at the address listed below.

Sincerely,



Mary Ann Wright  
Associate Director, Mining  
Assessment Conference Officer

vs

Enclosures

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BEFORE THE DIVISION OF OIL, GAS AND MINING  
MINERALS REGULATORY PROGRAM  
DEPARTMENT OF NATURAL RESOURCES  
STATE OF UTAH

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IN THE MATTER OF THE Bald	:	INFORMAL CONFERENCE
Knoll Mine, MMG Mining, Kane		For MC-05-02-02 (1)
COUNTY, UTAH	:	
		FINDINGS, CONCLUSIONS
		AND ORDER
	:	CAUSE NO. S/025/012

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On January 20, 2006, the Division of Oil, Gas and Mining (OGM) held an informal conference concerning the Fact of Violation and the Assessment for Cessation Order, MC-05-02-07 (1) issued to the Bald Knoll Mine, MMG Mining, Kane County, Utah. The following individuals attended via conference phone: Mark Carter of MMG Mining, and Scott Holt of 3-H Landscape; and Doug Jensen and Daron Haddock for OGM.

Presiding:	Mary Ann Wright Associate Director, Mining Division of Oil, Gas and Mining
Petitioner:	Mark Carter, MMG Mining St. George, UT

The Findings, Conclusions, and Order in this matter are based on information provided by the Petitioner and the Division in connection with this informal conference, and on information in the files of the Division.

**FACTS PRESENTED: Fact of the Cessation Order**

1. By letter dated December 14, 2005, Mr. Mark Carter requested an informal conference to discuss the fact of violation for Minerals Program Cessation Order MC-05-02-02 (1).

2. Pursuant to Utah Code Ann. Section 40-8-9 and Utah Administrative Rule R647-6-102, an informal conference in the matter was held on January 20, 2006. Notice of the informal conference was properly given.

At the informal conference, the Petitioner and OGM presented the following information to the Conference Officer:

3. The Cessation Order was issued on August 17, 2005 for failure to obtain a large mine permit before expanding beyond 5 acres.
4. Doug Jensen explained that Tom Munson and Daron Haddock visited the mine on October 24, 2005 and saw that reclamation had been completed on 4.62 of 8.60 disturbed acres.
5. Mr. Carter agreed that Mr. Jensen's explanation was correct. He has a \$16,000 bond in the form of an LOC with Village Bank, held by SITLA. He said he prefers that this site not become a Large Mine Operation. Mr. Holt, who is buying the permit from Mr. Carter, explained that MSHA recommended a safety escape route from the mine.
6. Doug Jensen and Daron Haddock of the Division asserted that the operator was asked to "reclaim down" in 2004. This did not occur. Wetness in the area persisted well into July 2005. The cutting of the safety road, plus the area that did not get reclaimed as promised in 2004, put the operation over 5 acres. Detailed maps and pictures were shown of the site for August and October of 2005.
7. Mr. Carter admitted fault in going over 5 acres. He explained that the wet conditions of the year plus the need for the safety road put him in a position of going over, even though it was not his intention to go beyond five acres. Boundary markers were placed between August and October to keep the 5-acre site in mind. Mr. Carter also submitted an LMO application as required.

### **CONCLUSIONS**

- Mining of over 5 acres occurred without a Large Mine Operation permit. The Fact of the Violation (CO) should stand.

### **ORDER**

NOW THEREFORE, it is ordered that:

- The fact of the violation (CO) stands.

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### **FACTS PRESENTED: Assessment of the Cessation Order**

1. By letter dated December 14, 2005, Mr. Carter requested an informal conference to discuss the assessment of the violation for Minerals Program Cessation Order MC-05-02-02 (1). Pursuant to Utah Code Ann. Section 40-8-9 and Utah Administrative Rule R647-6-102, an informal assessment conference in the matter was held on January 20, 2006. Notice of the informal conference was properly given.
2. At the informal conference, the Petitioner presented the following information to the Conference Officer. The site was too wet to work due to excessive precipitation in the area. The concern for safety was a driving factor in going over 5 acres and putting in the road as suggested by MSHA. Mr. Carter would like the fine taken away.
3. The division asserted that the LMO has been received and is under review.

### **CONCLUSIONS**

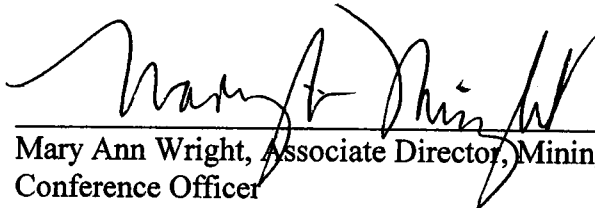
- Facts were presented which were taken into consideration of a reassessment of this cessation order.
- The division extended the termination date to November 4, 2005. The operator submitted an LMO within the extended time. This was normal compliance of a difficult abatement

### **ORDER**

NOW THEREFORE, it is ordered that:

- A fine of \$484.00 is re-assessed and payable 30 days from receipt of this re-assessment.

SO DETERMINED AND ORDERED this 13<sup>th</sup> day of February 2006

  
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Mary Ann Wright, Associate Director, Mining  
Conference Officer  
Division of Oil, Gas and Mining  
State of Utah

UTAH DIVISION OF OIL, GAS AND MINING  
WORKSHEET FOR FINAL RE-ASSESSMENT OF PENALTIES

COMPANY: MMG Mining  
PERMIT: S/025/012  
VIOLATION: MC-05-02-02 (1)

ASSESSMENT CONFERENCE OFFICER: Mary Ann Wright

	Final Assessment	Re- Assessment
(1) History/Previous Violations	<u>0</u>	<u>0</u>
(2) Seriousness	<u>28</u>	<u>24</u>
(3) Negligence	<u>8</u>	<u>6</u>
(4) Good Faith	<u>-8</u>	<u>-8</u>
Total Points	<u>28</u>	<u>22</u>

TOTAL ASSESSED FINE    \$ 484.00

NARRATIVE: Conducting mining outside of the 5-acre permit. Safety is a large consideration, but OGM should have been contacted to be told that MSHA recommended putting the road in. Difficult abatement; normal compliance. Probability of Occurrence reduced to 19 penalty points and Damage reduced to 5 penalty points for a total of 24 Seriousness points. Negligence reduced to 6 points.

(Brief explanation for any changes made in assignment of points and any additional information that was available after the proposed assessment.)